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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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UNITED STATES OF AMERICA

v.

DAREN DEJONG

Defendant.

U.S. DISTRICT COURT
DISTRICT OF MASS.

Docket No. 1:18-cr-10307-MLW

**MEMORANDUM IN SUPPORT OF DEFENDANT'S MOTION
TO PARTIALLY SEAL HIS SENTENCING MEMORANDUM**

The defendant, Daren DeJong, by and through undersigned counsel, hereby submits this memorandum in support of his *Motion to Seal Sentencing Memorandum* per Order of this Honorable Court. Undersigned counsel avers and states the interests advanced by partial sealing of his sentencing memorandum are substantial. *See Affidavit of Counsel in Support of Defendant's Motion to Partially Seal His Sentencing Memorandum*, filed herewith. Specifically, the redactions are intended to protect the inadvertent disclosure of an ongoing investigation being conducted by the Public Corruption unit of the Massachusetts Attorney General's Office. The only additional redaction the defendant has made to his sentencing memorandum was for his wife's recent medical diagnosis. Both matters are expressly contemplated by the Local Rules as falling within the ambit of materials subject to redaction. *See* LR 83.6.11(b)(3) ("Any matters reasonably necessary to protect information subject to grand jury secrecy or to protect an ongoing criminal investigation."); 83.6.11(b)(4) ("Any matters of a highly personal or private nature.").

Although the public has an interest in the availability of the information which underlies this Court's sentencing determinations, that interest is substantially outweighed by others achieved by withholding *some* of that information. First, the public has a substantially greater "interest in

the investigation of criminal activities,” *Maine v. Moulton*, 474 U.S. 159, 180 (1985), particularly when the nature of the investigation is focused on law enforcement itself. Second, the defendant has an interest in receiving a sentence fashioned by this Court which considers all relevant information. *See* Fed. R. Crim. P. 32(d)(2)(G). If the information relative to the proffer was not sealed, the defendant, who does not wish to jeopardize the state’s investigation, would be forced to withdraw that information from this Court’s consideration. Third, the defendant’s son is currently a Massachusetts State Police Trooper and there is a concern his career might be affected if information about his father’s proffer became known publicly. Finally, his wife’s medical circumstances are likewise relevant to this Court’s sentencing determination and her privacy interests with respect to her medical history and diagnoses are substantial.

Based on the foregoing, the defendant respectfully submits the public’s limited interest in the availability of the redacted information is substantially outweighed by the other interests (shared by both the public, the defendant and others) served by sealing that information. Additionally, some of these interests may be frustrated if notice were given to the public that the defendant moved to seal part of his sentencing memorandum (because of inferences which might be drawn from that motion). Accordingly, he respectfully requests notice not be given that a motion for partial redaction was filed.

WHEREFORE, DeJong respectfully moves this Honorable Court to seal the instant motion, his motion to seal previously filed, and to allow the materials redacted in the memorandum filed electronically to remain redacted.

Dated: April 25, 2019

Respectfully submitted,
DAREN DEJONG
By and through his attorney,

/s/ R. Bradford Bailey
R. Bradford Bailey, BBO#549749

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Certificate of Service

I, R. Bradford Bailey, hereby certify that on this the 25th day of April, 2019, I caused a true copy of the foregoing *Defendant's Memorandum in Support of His Motion to Partially Seal His Sentencing Memorandum* to be served upon counsel for the government, AUSA Mark Grady, via in-hand service.

/s/ R. Bradford Bailey
R. Bradford Bailey